

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§	
Plaintiff	§	
v.	§	CIVIL ACTION NO. 4:20-cv-00571
	§	
\$19,170.00 IN U.S. CURRENCY,	§	
Defendant.	§	

VERIFIED COMPLAINT FOR FORFEITURE IN REM

The United States of America files this action for forfeiture and alleges upon information and belief:

Nature of Action

1. This is an action to forfeit property to the United States.

Defendants in Rem

2. The Defendant Property is \$19,170.00 in U.S. currency seized from a safe within Barker Cypress Pharmacy located in Houston, Texas.

The Defendant Property was seized on August 28, 2019, and will remain in the custody of the United States Marshals Service for the Southern District of Texas.

Jurisdiction and Venue

3. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1355(b)(1), 1391(b), and 1395.

Statutory Basis for Forfeiture

4. Title 21 U.S.C. § 881(a)(6) provides for the forfeiture of money and other things of value furnished or intended to be furnished in exchange for a controlled substance, all proceeds traceable to such an exchange, and all moneys used or intended to be used to facilitate a violation of the Controlled Substances Act. Underlying violations of the Act include 21 U.S.C. § 841 (Distribution of Controlled Substances), 21 U.S.C. § 846 (Conspiracy to Distribute Controlled Substances), 21 U.S.C. § 856 (Maintaining a Drug-Involved Premises), and 21 U.S.C. § 843 (Use of a Communication Facility to Facilitate a Drug Offense).

Facts

5. The term “pill mill” is used to describe a pharmacy that is illegally dispensing controlled substances without a legitimate medical purpose.

6. Barker Cypress Pharmacy and Home Care Equipment LLC, d/b/a/ Barker Cypress Pharmacy is located at 1855 Barker Cypress Road, Suite 140, Houston, Texas 77084. Barker Cypress Pharmacy is a registered pharmacy in the State of Texas.

7. Barker Cypress Pharmacy handled Schedule II-V controlled substances under DEA Number FB3079414. At the relevant times, it was registered with the Texas State Board of Pharmacy (“TSBP”) under license Number 27882.

8. According to Texas Secretary of State records, Cynthia Ngwaba (“Ngwaba”) is the manager and registered agent of Barker Cypress Pharmacy. Additionally according to TSBP records, Ngwaba is the Pharmacist-in-Charge (“PIC”) of Barker Cypress

Pharmacy. Ngwaba has surrendered the DEA registration number and the Pharmacy's Certificate of Registration.

9. The TSBP tracks all controlled-substance prescriptions filled by Texas pharmacies in the Prescription Monitoring Program ("PMP") database. In August 2018, the TSBP analyzed Barker Cypress Pharmacy's PMP data for the previous year after receiving a complaint from one of Barker Cypress Pharmacy's drug wholesalers. Based on that review, a TSBP enforcement specialist concluded that Barker Cypress Pharmacy "very clearly had 'pill mill' tendencies." On October 2, 2018, TSBP notified Ngwaba of the complaint and included a copy of relevant Texas statutes and rules and the TSBP's "Red Flags" Checklist for Pharmacies, entitled "You Might Be A Pill Mill If..."

10. Oxycodone, hydrocodone, and carisoprodol are Schedule II and IV controlled substances which pose a substantial potential for abuse and addiction. Based on PMP data, Barker Cypress Pharmacy fills an overwhelming majority of its prescriptions for the maximum strength of oxycodone, hydrocodone, and carisoprodol. According to the Drug Enforcement Administration ("DEA")'s Automation of Reports and Consolidated Orders System ("ARCOS"), Barker Cypress Pharmacy used three different drug wholesalers for controlled substances since 2018. Using more than one drug wholesaler is a TSBP red flag of a "pill mill." In January 2018, drug wholesaler AmerisourceBergen stopped selling controlled substances to Barker Cypress Pharmacy because of its purchasing patterns.

11. Despite the TSBP's notice to Barker Cypress Pharmacy, Barker Cypress Pharmacy continued to dispense the controlled substances in the same or similar amounts and in the same or similar manner.

12. Barker Cypress Pharmacy sold oxycodone, hydrocodone, carisoprodol, and other drugs without a legitimate medical purpose for cash and that such sales were made in violation of law. Some of that cash was the Defendant Property of \$19,170.00 and was contained within a safe inside Barker Cypress Pharmacy on August 28, 2019.

13. The Defendant Property was bundled with receipts containing patient names and the amounts of money paid by or on behalf of the patient to Barker Cypress Pharmacy. The amounts listed on the receipts correspond with a higher-than-legitimate-market value for oxycodone, hydrocodone, and carisoprodol. Barker Cypress Pharmacy inflated its prices for the controlled substances because its customers were willing to pay more, given the controlled substance's high "street" resale value.

14. The Defendant Property of \$19,170.00 in U.S. currency seized from a safe within Barker Cypress Pharmacy is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6) as currency furnished or intended to be furnished in exchange for a controlled substance, proceeds traceable to such an exchange, and/or moneys used or intended to be used to facilitate a violation of the Controlled Substances Act, all in violation of 21 U.S.C. §§ 841, 846, 856, and 843.

Conclusion

The United States requests a judgment of forfeiture forfeiting the Defendant Property to the United States with such other relief to which the United States may be entitled.

Respectfully submitted,

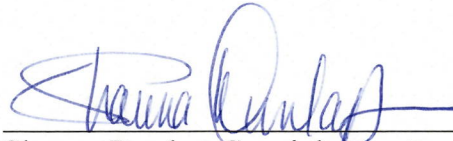
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Verification

I, Shauna Dunlap, a Special Agent with the Federal Bureau of Investigation, hereby verify under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the facts set forth in the foregoing Complaint For Forfeiture In Rem are based upon either personal knowledge or from information, reports, or records obtained during investigation and from other law enforcement personnel, and are true and correct to the best of my knowledge and belief.

Executed on the 19th day of February, 2020.



Shauna Dunlap, Special Agent
Federal Bureau of Investigation